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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,572	10/24/2003	Daniel Phillip Dailey	10541-1894	9046

29074 7590 11/02/2005

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EXAMINER

GOODEN JR, BARRY J

ART UNIT

PAPER NUMBER

3616

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/692,572

Applicant(s)

DAILEY ET AL.

Examiner

Barry J. Gooden Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10/24/2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 17-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/24/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/24/2003</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-16, drawn to an air bag apparatus, classified in class 280, subclass 728.3.
- II. Claims 17-20, drawn to a method of forming an instrument panel, classified in class 156, subclass 60.

The inventions are distinct, each from the other because of the following reasons:

Inventions method of forming an instrument panel and air bag apparatus are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed may be made by another and materially different process whereby the foam is not injected.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Dan Thompson on October 19, 2005 a provisional election was made without traverse to prosecute the invention of an airbag apparatus, claims 1-16. Affirmation of this election must be made by applicant in replying to this Office action. Claims 17-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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***Specification***

The disclosure is objected to because of the following informalities:

The abstract of the disclosure and specification both refer to "weld studs," however the usage of this term is not art accepted. The term "weld stud" refers to studs, which are welded to the elements they fasten. The applicant does not make it clear whether the "weld studs" are actually welded to any of the elements they fasten.

Appropriate correction is required.

Claims 1-4 and 6-16 are objected to because of the following informalities:

These claims refer to "weld studs," however the usage of this term is not art accepted. The term "weld stud" refers to studs, which are welded to the elements they fasten. The applicant does not make it clear whether the "weld studs" are actually welded to any of the elements they fasten.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10 and 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Dailey et al., US Patent 6,457,739 B1.

In regards to claims 1-4, Dailey et al. show the claimed modular airbag door assembly comprised of an airbag chute (14) having a front side (20) and a rear side (22) and defining an opening (14) extending therethrough; a door panel (24) pivotally mounted to the front side (20) of the air bag chute (14) and covering the opening (14); a plurality of mechanical fasteners (58) extending from the rear side (22) of the air bag chute (14), the fasteners (58) adapted to allow the airbag door assembly to be mounted to the substrate (12). Dailey et al. also show the claimed assembly further including a seal (40), a piece of

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tape, extending around an outer periphery of the airbag chute (14) and an outer periphery of the door panel (24) to provide a seal (40) between the outer periphery of the airbag chute (20) and the door panel (24). The examiner notes that the chute of Dailey et al. is integral to the substrate; as such the rear side (22) of the chute is positioned against the front side (20) of the substrate (12) and there is a seal between the rear side (22) of the airbag chute (14) and the front side (20) of the substrate (12). The examiner also notes that the "weld studs" as defined in the submitted specification are mechanical fasteners (58).

In regards to claims 5-10, Dailey et al. show the claimed instrument panel (10) for an automobile passenger compartment comprised of a substrate (12) having an outer (20) and inner (22) surface and defining an opening (14) extending therethrough; a modular airbag door assembly mounted to the outer surface (20) of the substrate (12); an airbag device (18) mounted to the modular airbag door assembly adjacent the inner surface (22) of the substrate (12). The modular airbag door assembly comprising an airbag chute (14) having a front (20) and rear (22) side defining an opening (14) extending therethrough; a door panel (24) pivotally mounted to the front side (20) of the airbag chute (14) and covering the opening (14); a plurality of mechanical fasteners (58) extending from the rear side (22) of the airbag chute (14), the mechanical fasteners (58) engaging the substrate (12) to secure the air bag door assembly to the outer surface (20) of the substrate (12). Dailey et al. also show the claimed seal (40), a piece of tape, extending around an outer periphery of the airbag chute (14) and door panel (24). The door panel (24) is formed from metal and the substrate (12) is formed of plastic. The examiner notes that the chute (14) of Dailey et al. is integral to the substrate (12); as such the rear side (22) of the chute (14) is positioned against the front side (20) of the substrate (12), there is a seal between the rear side (22) of the airbag chute (14) and the front side (20) of the substrate (12), portions of the airbag chute (14) extend through the opening (14) within the substrate (12) and the airbag device (18) is mounted to the portions of the airbag chute (14) that extend through the opening (14) within the substrate (12) adjacent the inner surface of the substrate (12). The examiner also notes that the "weld studs" as defined in the submitted specification are mechanical fasteners (58).

In regards to claims 12-15, Dailey et al. show the claimed instrument panel (10) as previously discussed including a door panel (24) with a top flap portion that is secured to the front side (20) of the

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airbag chute (14). Further including foam (44) positioned between the substrate (12) and the skin covering (42) extending over the substrate (12). The skin covering (42) including a pre-weakened pattern outlining an outer periphery of the door panel (24) and providing no external indicia of the airbag device (18) located beneath. The pre-weakened pattern provides a break point to allow a controlled portion of the skin covering (42) immediately over the modular airbag door assembly to break away upon deployment of the airbag device (18) (Column 2, Lines 54-67).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dailey et al. in view of Teranishi et al., US Patent 6,726,239 B1.

Dailey et al. disclose all of the claimed elements as previously discussed, except the door panel having stiffening ribs formed therein, Teranishi et al. teaches the use of stiffening ribs (58) formed on a door panel (26). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the door panel of Dailey et al. in view of the teachings of Teranishi et al. to include stiffening ribs so as to provide a door panel with enhanced strength.

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Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dailey et al. in view of Bauer, US Patent 5,611,564.

Dailey et al. disclose all of the claimed elements as previously discussed, except the substrate having an outwardly extending ridge acting as a tear initiator, Bauer teaches the use of a substrate (48) having an outwardly extending ridge (58) acting as a tear initiator. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the substrate of Dailey et al. in view of the teachings of Bauer to include an outwardly extending ridge acting as a tear initiator so as to increase the ability of the foam to tear in the pre-weakened region of the skin.

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kawakubo et al., Suzuki et al., Lehman, Sun et al., Fiery et al., Hodges, and Vavalidis all disclose similar apparatuses.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barry J. Gooden Jr. whose telephone number is (571) 272-5135. The examiner can normally be reached on Monday-Friday 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on (571) 272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**PAUL N. DICKSON**  
**SUPERVISORY PATENT EXAMINER**  
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Barry J Gooden Jr.  
Examiner